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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 KENNETH M. SUTTON,

12 Petitioner,

13 v.

14 STATE OF WASHINGTON,

15 Respondent.

Case No. C08-5358RBL

ORDER DISMISSING PETITION

16 The Court, having reviewed the petition for habeas corpus, the Report and Recommendation of  
17 Judge J. Kelley Arnold, United States Magistrate Judge, and the remaining record, does hereby find and  
18 Order:

- 19 (1) The Court adopts the Report and Recommendation.  
20 (2) Petitioner's pending motions, if any, are DENIED.  
21 (3) Petitioner's federal habeas petition is DISMISSED without prejudice.  
22 (4) The Clerk is directed to send copies of this Order to petitioner and to Judge Arnold.  
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24 DATED this 19<sup>TH</sup> day of September, 2008.  
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27 RONALD B. LEIGHTON  
28 UNITED STATES DISTRICT JUDGE